



This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 6/12/01.

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

**IN THE MATTER OF** )  
 )  
**Gregorio Lopez,** )  
 **Complainant** )  
**and** )  
 )  
**Homak Manufacturing Company, Inc.,** )  
 **Respondent** )

**CHARGE NO.: 1998 CA 1072**  
**EEOC NO.: 21B 980262**  
**ALS NO.: 10831**

**RECOMMENDED ORDER AND DECISION**

This matter is before me on Respondent’s Motion for Reconsideration of my order of March 7, 2001 in which I vacated an earlier order granting Respondent’s motion that the complaint be dismissed. The Motion for Reconsideration correctly indicates that the request that the complaint be dismissed for want of prosecution was not made orally, but was included in the prayer of Respondent’s Motion to Compel filed on April 13, 2000 and which was duly served on Complainant and the Department of Human Rights. Respondent’s Motion for Reconsideration is granted.

Even though Complainant appeared in response to the order of March 7, 2001 on both March 22, 2001 and April 4, 2001, it is apparent that he is not prepared to go forward with this matter to a decision on the merits of the case. He has never responded to the initial request for discovery served on him by Respondent on December 1, 1999 and he has never filed any discovery request on Respondent. During his appearance on April 4, 2001, Complainant indicated that he has lost or misplaced all of the documents he accumulated regarding his complaint and now will not be able to provide copies to Respondent or have them available for his own use. I find that the case should be dismissed at this time because of the failure of

Complainant to take any action since the filing of the complaint nearly two years ago consistent with reaching a disposition of the case on the merits, in accord with the authority granted to the Commission in the Illinois Human Rights Act, 775 ILCS 5/8A-102(I)(6).

### **Findings of Fact**

1. Respondent was properly served with notice of this matter, answered the complaint, and has been represented by counsel throughout its pendency.
2. Although Complainant was informed of his right to be represented by counsel, he has chosen to represent himself throughout the pendency of this case.
3. There is no evidence in the record that Complainant has ever served an initial request for discovery on Respondent.
4. Respondent filed its initial request for discovery on Complainant on December 1, 1999. Complainant has not responded to this request to date.
5. Respondent filed a Motion to Compel (“Motion”) on April 13, 2000. One remedy suggested in the Motion was the dismissal of the complaint. The Motion was served on the Department of Human Rights.
6. No decision on the Motion was ever entered. The case was on the docket of the Commission’s motion call seven times after the Motion was filed. Complainant or his spouse appeared on every occasion except one and he was given extensions in order to obtain translation services and legal counsel. However, he has never appeared at the Commission with a translator and no attorney has ever appeared on his behalf.

7. On April 4, 2001, Complainant reported that he has misplaced all of the documents he accumulated regarding this case and will not be able to respond to discovery. He also reported that he has made no progress in obtaining counsel. It is apparent that Complainant will not be able to prosecute his case by himself and he has had ample opportunity to engage a lawyer to represent him in this matter.

### **Conclusions of Law**

1. Complainant is an “aggrieved party” and Respondent is an “employer” as those terms are defined by the Illinois Human Rights Act, 775 ILCS 5/1-103(B) and 5/2-101(B), respectively.

2. The Commission has jurisdiction over the parties and the subject matter of this action.

3. The Commission is authorized to dismiss complaints with prejudice due to “the failure of a party to prosecute his or her case . . . .” Illinois Human Rights Act, 775 ILCS 5/8A-102(I)(6).

4. Because Complainant has failed to take actions that will advance this case to disposition on its merits, there has been a failure “to prosecute his or her case” on the part of Complainant, thereby requiring dismissal of the complaint with prejudice.

### **Discussion**

The Commission often dismisses cases because the complainant failed to diligently prosecute the matter, often without even taking the earliest steps along the procedural path. It is a fundamental principle governing practice before this Commission that it is the singular responsibility of the complainants to diligently pursue disposition of the cases once they are docketed with the Commission. In this case, it has been nearly two years since the case was filed

here and no progress has been made toward disposition of the case on the merits. To the contrary, Complainant appears to be even less able to pursue the case now than he was a year ago in that he has misplaced all of the materials he believed to be relevant to the presentation of his case. He is now completely incapable of responding to discovery.

Because of the passage of time with no effective action on the part of Complainant, it is recommended that this case now be dismissed because of the failure of Complainant to prosecute his case and his present inability to do so.

**Recommendation**

It is recommended that this case be dismissed with prejudice pursuant to the authority granted to the Commission in the Illinois Human Rights Act at 775 ILCS 5/8A-102(I)(6).

ENTERED:

May 2, 2001

BY: \_\_\_\_\_  
DAVID J. BRENT  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION